Supreme Court, U.S.
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No. 98-559

IN THE

Supreme Court of the United States

OCTOBER TERM, 1998

WILLIAM FRANKLIN AUSTIN,

Petitioner,

vs.

CYNTHIA LEE DAWSON-AUSTIN,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF TEXAS

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether a state court has jurisdiction to divide the parties' estate in a divorce action when the state court does not have personal jurisdiction over a non-resident spouse, the parties' estate consists of out of state property, and the parties seek equitable claims and personal money judgments?

2. May a spouse unilaterally bring personal property to a state, which is not the state of marital residence or in which the other spouse has no minimum contacts, for the purpose of having that state adjudicate the parties' rights to that personal property without fully addressing the complex issues involved in a division of the entire marital estate?

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STATEMENT OF THE CASE

Petitioner, William Franklin Austin ("Austin") and Respondent, Cynthia Lee Dawson-Austin ("Dawson-Austin") were married by an informal marriage ceremony in China in 1980 and formally married in Minnesota in 1982. (A. 214). Throughout the marriage the couple's principal residence was in Minnesota, although they also owned homes elsewhere, including one they acquired in California in 1984. (A. 214). When they separated in February 1992, Dawson-Austin was living in their California home. Austin moved to Texas on March 10, 1992. (A. 214). On September 10, 1992, six months to the day after he arrived in Texas (the earliest date he could establish Texas residency), Austin filed for divorce. (A. 214). At the time the divorce was filed, the largest asset of the parties' estate was their interest in Starky Laboratories, Inc. Austin bought his Dallas home, opened his Texas bank accounts, and brought his Starky stock certificate to Texas after he separated from Dawson-Austin. (A. 230). It is conceded that Dawson-Austin had no contacts with Texas and did not purposefully avail herself to Texas jurisdiction. (A. 228). The parties never lived in Texas, never maintained Texas as their marital residence, and Austin had not lived in Texas before March 1992. (A. 228).

In his divorce petition, Austin did not request the Texas court to divide only property located in Texas. Rather, he requested of the Texas court to divide all of the parties' community property (which consisted of property located both in Texas and outside Texas). He requested the award of a reimbursement claim, and in his initial petition sought an award of attorney's fees. (T. 32-35); (T. 1527-1530).

In its opinion, The Texas Supreme Court held that "the district court lacked jurisdiction to adjudicate Dawson-Austin's claim to part of the value of the Starky stock or to divide the

marital estate." (A. 231). Three justices of the Texas Supreme Court dissented on Texas' procedural grounds which are not at issue before this Court.

REASONS FOR DENYING THE WRIT

This case will not resolve a significant, continuing uncertainty about in rem and quasi in rem jurisdiction arising from confusion about this Court's ruling in *Shaffer v. Heitner*, 433 U.S. 186 (1977). This Court made it clear that "all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe* and its progeny." *Id.* at 212. This is exactly what the Texas Supreme Court did. In this case, Petitioner sought a division of all the parties' estate, sought equitable remedies from the Texas court, and initially sought a money judgment. The Texas Court followed *Shaffer* and determined that Respondent had no minimum contacts with Texas and did not purposefully avail herself to the laws of Texas and dismissed this action.

Further, contrary to Petitioner's assertion, this is not a case of "ownership" rights in a piece of property located in the State of Texas. Petitioner attempts to characterize this case as only a case about a few pieces of property, as if it were a suit between two unrelated individuals. Petitioner mixes apples and oranges. Rather, this is a case involving the division of the parties' estate. In this case, Petitioner alleged a claim for equitable reimbursement. When a claim for equitable reimbursement is made, the action is more similar to an in personum action because a spouse's interest in property not located in the state can be affected. The Texas court cannot separate out portions of the parties' properties and equitable claims and divide them piecemeal. These concepts are interrelated and mutually dependant in an action to divide the parties' estate.

Petitioner cites to this Court the case of *Abernathy v. Abernathy*, 482 S.E. 2d 265 (Ga. 1997) for the proposition that

the Georgia Supreme Court ruled directly contrary to the Texas Supreme Court. To the contrary, the facts involved in *Abernathy* are strikingly different from the facts in this case. Most pointedly, in *Abernathy* the divorcing spouse only requested the Georgia court to divide property located in Georgia. While Respondents disagree with the holding by the Georgia Supreme Court, which contained a vigorous dissent, Respondent asserts that this case is distinguishable from the Georgia court's holding in that Petitioner in this case specifically sought a division of all the parties' property both in state and out of state, and requested equitable relief, and initially sought a money judgment against Respondent from the Texas court.

ARGUMENT

Question No. 1

Whether a state court has jurisdiction to divide the parties' estate in a divorce action when the state court does not have personal jurisdiction over a non-resident spouse, the parties' estate consists of out of state property, and the parties seek equitable claims and personal money judgments.

Question No. 2

May a spouse unilaterally bring personal property to a state, which is not the state of marital residence or in which the other spouse has no minimum contacts, for the purpose of having that state adjudicate the parties' rights to that personal property without fully addressing the complex issues involved in a division of the entire marital estate?

Although Respondent had no contacts with Texas and did not purposefully avail herself to Texas, Petitioner argues that Texas nevertheless had limited jurisdiction to determine some

ownership rights in some property. Petitioner makes this argument despite his unilateral actions to attempt to create jurisdiction in Texas by purchasing a piece of real property in Texas and by unilaterally bringing with him the Starkey stock certificate to Texas. Both of these actions were done after the parties had separated. Petitioner argues that the location of the property in Texas, despite the surrounding circumstances, is sufficient to meet the minimum contacts standard set forth in *International Shoe* and its progeny.

Petitioner relies heavily on this Court's statement in *Shaffer* that:

> When claims to the property itself are the source of the underlying controversy between the Plaintiff and the Defendant, it would be unusual for the State where the property is located not to have jurisdiction.

Shaffer, 433 U.S. at 208 (Petitioner's Petition page 6).

Petitioner failed to fully quote this Court's opinion in *Shaffer* with regard to the particular quotation set forth above. In *Shaffer*, this Court continued:

> In such case, the Defendant's claim to property located in the State would normally indicate that he expected to benefit from the State's protection of his interest.

Shaffer, 433 U.S. at 207-208.

As such, this is not a case where Respondent had purchased some property in Texas and then complained about being sued in Texas over a dispute as to that property. Rather, this is a case where Respondent had no expectation of being sued in Texas and did not purchase property in Texas.

SUPREME COURT PRECEDENT

This Court has previously held that "all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe* and its progeny." *Shaffer*, 433 U.S. at 212.

The Due Process Clause of the Fourteenth Amendment operates as a limitation on the jurisdiction of state courts to enter judgments affecting rights or interests of non resident defendants. *Kulko v. California Superior Court*, 436 U.S. 84, 91 (1978). It has long been the rule that a valid judgment imposing a personal obligation or duty in favor of the plaintiff may be entered only by a court having jurisdiction over the person of the defendant. *Id.* The existence of personal jurisdiction, in turn, depends on the presence of reasonable notice to the defendant that an action has been brought and a sufficient connection between the defendant and the forum state to make it fair to require defense of the action in the forum. *Id.*

This Court has emphasized:

> The unilateral activity of those who claim some relationship with a non resident defendant cannot satisfy the requirement of contact with forum state. . . . [I]t is essential in each case that there be some act by which the defendant purposefully avails [him]self of the privilege of conducting activities within the forum state.

Id. 435-436.

> The constitutional touchstone remains whether the defendant purposefully established "minimum contacts" in the forum state. . . . Critical to due

> process analysis . . . is that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there.

World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980).

The "purposeful availment" requirement insures that a defendant will not be haled into a jurisdiction solely as a result of "random," "fortuitous", or "attenuated" contact. *Keeton v. Hussler Magazine, Inc.,* 465 U.S. 770, 774 (1984).

Similarly, this Court has held that due process requires that individuals have fair warning that a particular activity may subject them to the jurisdiction of a foreign sovereign. *Burger King v. Rudzewicz,* 471 U.S. 462, 472 (1985).

It is uncontested in this case that Respondent made no purposeful acts which would give rise to an expectation of being haled into a Texas court. The Texas real property involved in this case was unilaterally purchased by Petitioner after the parties had separated. The stock certificate in Starky was unilaterally taken from Minnesota to Texas by Petitioner and a bank account was opened unilaterally by Petitioner in Texas.

A. A Request to Divide the Parties' Estate Is More than an in Rem Action to Determine Ownership Interest in Certain Select Property

An action seeking to divide the parities' estate is a complex and intricate web of various concepts. It involves issues of characterization of property; theories of waste and fraud upon the community; theories of reimbursement and tracing; issues of

personal money judgments, personal injury claims, adultery, and fault in the break up of the marriage. All of these factors go into granting an equitable division of the parties' estate. This is not simply an in rem or a quasi in rem case. Petitioner sought to impose obligations on Respondent as well. The judgment rendered in a divorce action, in part, arise from the conduct of the parties, not the property. Hence, the litigation does not merely relate to property located in Texas, but involves numerous other issues.

As this court stated in *Shaffer v. Heitner*, 433 U.S. 186 (1977), the difference between an in rem action and an in personum action is as follows:

> If a court's jurisdiction is based on its authority over the defendant's person, the action and judgment are denominated "in personum" and can impose a personal obligation on the defendant in favor of the plaintiff. If jurisdiction is based on the court's power over property within its territory, the action is called "in rem" or "quasi in rem." The effect of a judgment in such a case is limited to the property that supports jurisdiction and does not impose a personal liability on the property owner, since he is not before the court. In *Pennoyer's* terms, the owner is affected only "indirectly" by an in rem judgment adverse to his interest in the property subject to the court's disposition.

Id. at 199.

This current action sought to divide property located outside of Texas and to directly impose an obligation upon Respondent. Under Texas law, the Texas court is required to divide the community estate on a basis that is just and right:

> In a decree of divorce or annulment, the court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.

Tex. Fam. Code § 7.001. The Texas Supreme Court has long held that a broad spectrum of factors are to be considered by the Court in dividing the estate of the parties. The Texas Supreme Court stated in the case of *Murff v. Murff*, 615 S.W. 2d. 696 (Tex. 1981) as follows:

> Numerous courts of civil appeals decisions have recognized that a trial court may consider the disparity of incomes or of earning capacities of the parties in dividing the estate of the parties. The cases cited in the margin recognize that community property need not be equally divided. In exercising its discretion the trial court may consider many factors and it is presumed that the trial court exercised its discretion properly. These cases further indicate that the trial court may consider such factors as the spouses' capacities and abilities, benefits which the party not at fault would have derived from continuation of the marriage, business opportunities, education, relative physical conditions, relative financial condition and obligations, disparity of ages, size of separate estates, and the nature of the property. We believe that the consideration of such factors by the trial court is proper in making a 'just and right' division of the property. Likewise, the consideration of a disparity in earning capacities or of incomes is proper and need not be limited to "necessitous" circumstances.

Id. at 698-99 (citations omitted).

This necessarily entails the requirement of jurisdiction over the individual to consider these factors. For example, fault in the break-up of the marriage is a factor for awarding a disproportionate share of the parties' estate. To determine fault, the court must, by definition, look to the conduct of the parties. The conduct of the parties is related to in personum jurisdiction and not in rem jurisdiction. None of Respondent's conduct took place in Texas, and none of Petitioner's conduct could have occurred in Texas until after the separation. This case is not merely an adjudication of ownership rights of property located in Texas, i.e. a "full in rem case." A divorce and the division of the parties' estate can have far reaching consequences well outside the title to a particular piece of property. It can involve personal money judgments against the spouse, it can involve personal injury determinations by one spouse against the other. *See Twymen v. Twymen,* 855 S.W. 2d 619 (Tex. 1993) (tortuous claims may be brought by one spouse against the other in the divorce action). The tortuous conduct can be used to grant a disproportionate share of the parties' estate. *Id.*

In an action to divide the parties' estate, the trial court can award money judgments in favor of one spouse and against the other spouse in order to achieve an equitable division of the community estate.

> [I]t is well settled that a trial court may award a money judgment to one spouse against the other in order to achieve an equitable division of the community estate.

Schlueter v. Schlueter, 975 S.W. 2d 584, 588 (Tex. 1998). As such, the potential for a Texas court to enter a personal money judgment against a nonresident spouse makes an action for the division of the parties' estate more similar to this Court's line of cases in *Estin v. Estin,* 334 U.S. 541 (1948), in which this

Court ruled that personal jurisdiction is required to adjudicate a spouse's alimony obligation and *Kulko v. Superior Court of California,* 436 U.S. 84 (1978), in which this Court ruled that personal jurisdiction is required to impose a child support obligation on a nonresident parent. In fact, in this case, Petitioner alleged that Respondent had committed adultery, cruelty, and was responsible for fault in the breakup of the marriage. (T. 1527-1530).

Further, Petitioner requested a division of *all* of the parties' community property:

> 7. ***Division of Community Property***
>
> Petitioner believes Petitioner and Respondent will enter into an agreement for the division of their estate. If such agreement is made, Petitioner requests the Court to approve the agreement and order a division of their estate in a manner consistent with the agreement. If such agreement is not made, Petitioner requests the Court to order a division of their estate in a manner that the Court deems just and right, as provided by law.

(T. 1527-1530).

Substantial property was not located in Texas. The final judgment which was appealed from in this case awarded the following out-of-state property to Petitioner:

1. Property located at 665 Vernon Avenue South, Edina, Minnesota, Units 219, 319, 406, and 419;

2. Property located at 6670 Vernon Avenue South, Edina, Minnesota, Units 109, 119, 209, 409, and 419;

3. Property located at 6730 Vernon Avenue South, Edina, Minnesota, Unit 219;

4. House and lot at 230 Birch Bluff, Tonka Bay, Minnesota;

5. Lots 25, 26, and 27 "Wilcox Old Orchard Addition", Hennepin County, Minnesota;

6. 5321 Beach Side, Minnetonka, Minnesota; Lot 17, Block 3, Beach Side;

7. 706 Chandler Avenue, Glencoe, Minnesota; Lots 6 and 7, Block 69 in the Town of Franklin in McCloud County, Minnesota;

8. 601 Kings Croff, Cherry Hill, New Jersey, Unit No. 601;

9. 2915 East 10th Street, Glencoe, Minnesota;

8. 9505 Hamilton Avenue, Eden Prairie, Minnesota, Lot 7 in that part of Lot 7;

9. 2259 NE 194th Avenue, Portland, Oregon, Lot 5;

10. 6701 Fieldway, Edina, Minnesota, Lot 2, Block 3, Parkwood Knolls, 19th Edition;

11. 205 Ellen, Nixa, Missouri, Section 13, Township 27, Range 22;

12. 208 Poplar, Nixa, Missouri, Section 14, TWP 27, RG 22; Lot 6, Hedgpeth Estates;

(A. 12-13).

The Final Decree of Divorce further awarded numerous out-of-state properties to Respondent as follows:

1. House and Lot at 70661 Oroville Circle, Rancho Mirage, California;

2. 8 Birchville Drive, Mount Laurel, New Jersey;

3. 6120 Pine Street, Florence, Oregon;

4. Section 27, T13S, R10W, County of Lincoln, as platted and recorded in Block 38, Page 1376, Lincoln County, Deed Records, in Lincoln County, Oregon;]

555 Collins Avenue, Miami, Florida.

(A. 14-15). The Court also divided other out of state property. (A. 12-15).

Petitioner also sought an additional judgment against Respondent or the community. This type of relief sought by Petitioner necessarily involves personal jurisdiction over the Respondent and could have resulted in a personal judgment against her. Petitioner alleged as follows:

9. ***Reimbursement***

Petitioner requests the Court to reimburse Petitioner's separate estate or separate funds or assets that Petitioner expended to benefit or enhance the community estate.

(T. 1527-1530).

The right of reimbursement is not an interest in property or an enforceable debt, per say, but an equitable right which arises upon dissolution of the marriage through death, divorce, or annulment. *Vallone v. Vallone,* 644 S.W. 2d 455 (Tex. 1982). A right of reimbursement arises when the funds or assets of one estate are used to benefit or enhance another estate, without itself receiving some benefit. *Dakan v. Dakan,* 125 Tex. 305, 83 S.W. 2d 620 (1935). It also arises when the community time, talent, and labor are utilized to benefit and enhance a spouse's separate estate. *Vallone,* 644 S.W. 2d at 458. The Texas Supreme Court allows the use of a money judgment to enforce an order for reimbursement. *Jensen v. Jensen,* 665 S.W. 2d 107, 110 (1984). In most cases, the trial court will grant the party entitled to reimbursement a money judgment, however, the trial court can also devise other means of satisfying the reimbursement claim. For example, the other spouse was not prejudiced in any way by a trial court's decision to grant reimbursement in the form of shares of stock from the community estate. *Hilton v. Hilton,* 678 S.W. 2d 645, 649 (Tex. App.–Houston [14th Dist] 1984, no writ).

Inevitably, an action for division of the parties' estate will involve a counter-claim for divorce and a division of the parties' estate. Because the trial court has broad discretion when considering the parties' estate, the counter-claim is necessary to ensure the trial court considers all the relevant factors in dividing the parties' estate, both in state and out of state. In turn, subject to her special appearance, Respondent plead for a disproportionate of award of the community estate, alleged that Petitioner had committed waste, that Respondent was entitled to a reimbursement for the increase in the value of the Starky stock, that Petitioner had been at fault in the breakup of the marriage, Respondent requested attorney's fees which could result in a personal money judgment against Petitioner. Because the marriage largely existed in Minnesota, the waste of the assets

and other conduct complained of by both Petitioner and Respondent would have occurred in Minnesota. (T. 1801-1804).

Finally, the Texas court ordered Respondent, a non-resident of Texas, to appear in Texas to execute 14 special warranty deeds. (A. 3). Respondent's failure to travel to Texas and execute those special warranty deeds could have subjected Respondent to a contempt judgment being rendered by a Texas court which did not have personal jurisdiction over her.

B. The Georgia Supreme Court decision is distinguishable from this Case

In *Abernathy* the Georgia Supreme Court was faced with a different situation than the situation faced by the Texas Supreme Court. In *Abernathy,* the Georgia Supreme Court was careful to point out that the divorce case involved property located in Georgia, that neither party sought a money judgment or attorney's fees, and that the request for a division of property did not seek to divide out of state property. Consequently, the Georgia court concluded that it had "full in rem jurisdiction". *Id.* (A. 252). In fact, the Georgia court stated:

> Personal jurisdiction in Georgia may be required in order to obtain a judgment which will personally bind a non-resident defendant as to marital property located in another forum . . . Mr. Abernathy does not seek a division of marital property which is located in Louisiana or any state other than Georgia. . . . Therefore, where, as here, the only property at issue in a Georgia divorce action is such marital property as is situated in Georgia and the non-resident spouse claims an interest therein, the Georgia property is the very subject of the litigation, and a Georgia court has full in rem jurisdiction which has not been substantively changed by *Shaffer*.

(A. 250, 252).

In stark contrast, Petitioner in this case sought a division of all community property (including out of state property) and a reimbursement to his separate estate from the community estate. Further, the Texas court ordered Respondent to appear in the Texas court to sign special warranty deeds relating to out of state property. This case and the *Abernathy* case are distinguishable. Consequently, the Texas Supreme Court held that the district court lacked jurisdiction to adjudicate Respondent's claim to part of the value of the Starky stock or to divide the marital estate. The Texas Supreme Court noted that the facts giving rise to Respondent's claim to the value of the Starky stock would have occurred mostly in Minnesota and the Texas Supreme Court noted that Texas would not have jurisdiction to adjudicate a division of the entire marital estate. Further, Respondent contends that the Georgia Supreme Court was misguided in its analysis under the minimum contacts test and improperly used an "in rem" analysis.

C. Petitioner Argued Below That Respondent Had No "Ownership" Interest in the Starkey Stock

Petitioner, contrary to his position in this Court, has argued to the Texas Supreme Court that Respondent had no "ownership" interest in the Starky stock but only an equitable claim. On pages 36 and 37 of his Reply to the Application for Writ of Error to the Texas Supreme Court, Petitioner asserted as follows:

> Cindy contends that, since she would have had a right, in a Minnesota divorce, to assert an interest in the value of Starky Laboratories stock, the stock should therefore be divisible in a Texas divorce. . . . **because Cindy has either missed or is ignoring the plain fact that she has no ownership rights in Bill's pre-marital stock, under either the law of Minnesota or the law of Texas.**

> Cindy's argument reflects a fundamental misconception of the role of an equitable distribution statute in a common law state. **Cindy confuses the exercise of state police power of a Minnesota court in a Minnesota divorce with the spouses' *ownership* rights in property.**
>
> . . . This distinction between equitable distribution powers upon divorce, on the one hand, and true community property ownership on the other hand, has been widely recognized around America. . . .

(Emphasis added).

The "ownership" rights or "equitable reimbursement" rights in the Starkey stock would require personal jurisdiction over Respondent. Further, as pointed out by the Texas Supreme Court, the conduct and activity that would give rise to Respondent's claim for the increase of the value of the Starky stock would have occurred mainly in the marital residence state of Minnesota. Under Texas law, Respondent would be entitled to a reimbursement claim for the increase in value during marriage of property owned by the spouse prior to marriage, with the effect that community is to be reimbursed for value of time and effort expended by either or both spouses to enhance the separate estate of either. *Jensen v. Jenson,* 655 S.W. 2d 107, 109 (Tex. 1984).

Hence, under Texas law the claim would not be for ownership of property located in Texas, but a claim of equitable reimbursement which could result in a monetary judgment. The size of the monetary judgment would be based in part on the specific increase in the value of the Starkey stock, but also on the overall division of the parties' estate and the factors listed in *Murff.* When claims for equitable reimbursement are alleged in a divorce action, the action is more similar to an in personum one because a spouse's interest in property not located in the

state can be affected. As such, in order to maintain a suit to divide the Starky stock, the Texas court would have to have in personum jurisdiction over Respondent. Since it has not been argued that Texas had in personum jurisdiction over Respondent, this Court should deny Petitioner's Writ of Certiorari.

D. There Is A Forum

Petitioner's concern that there would not be a forum for a divorce is without merit. Petitioner has failed to acknowledge that there will always be a forum. If a person is desiring a divorce within the United States, that person could merely file in the jurisdiction where the Respondent is a resident. Additionally, in this case, California does have personal jurisdiction over both parties, which has been affirmed on appeal. (T. 2154-2186).

E. Forum Shopping is a Major Concern

Petitioner was a resident of Minnesota until he moved to Texas in March of 1992. Petitioner waited six months to the day to file his divorce petition. It is Respondent's allegation that Petitioner sought residency in Texas to take advantage of Texas law. It is Respondent's assertion that Petitioner sought the benefits of Texas' community property laws, which he argued held that the non-owning spouse is not entitled to the increase in the value of separate stock during the pendency of the marriage, but instead is entitled to a potential reimbursement claim

In stark contrast, both California and Minnesota could grant the non-owning spouse an ownership interest (or marital interest) in the increased value of the separate ownership stock during the time of marriage. This case at hand dramatically

highlights the differences between the states' laws. The value of Starky increased dramatically during the course of the marriage, by at least 30 million dollars. As such, Petitioner's allegation that forum shopping is not a concern is without merit. It has been Respondent's position all along that Petitioner has taken calculated steps to obtain a Texas divorce.

F. Wife Submitted to Jurisdiction of Texas Only as Previously Outlined by This Court

Respondent filed an answer submitting to the jurisdiction of Texas as to the dissolution of the marriage only pursuant to this Court's holding in *Williams v. North Carolina,* 317 U.S. 287 (1942), which held that a court can dissolve the bonds of matrimony between a domiciliary and a nonresident spouse even without personal jurisdiction over the nonresident spouse. Respondent's compliance with this Court's prior precedent should not be held against her. Respondent did not object to the jurisdiction of the court based on in personam jurisdiction as to the dissolution of the marital bonds because she could not pursuant to this Court's prior holding. As such, Petitioner's assertion is without merit.

CONCLUSION

The Texas Supreme Court held that the Texas court lacked jurisdiction to adjudicate Respondent's claim to part of the value of Starky stock or to divide the marital estate. Petitioner should not be allowed to benefit from his unilateral actions in trying to create jurisdiction in Texas, a state in which Respondent had never purposefully availed herself and had no reasonable expectation of being haled into Texas. This Court should deny the Petition for Writ of Certiorari.

Respectfully submitted,

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